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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,255	12/03/2003	John Landau	449/117	4906
27538 7590 08/19/2009 GIBSON & DERNIER L.L.P. 900 ROUTE 9 NORTH SUITE 504 WOODBIDGE, NJ 07095				
EXAMINER				
AL AUBAIDI, RASHA S				
ART UNIT		PAPER NUMBER		
2614				
MAIL DATE		DELIVERY MODE		
08/19/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/727,255

Applicant(s)

LANDAU, JOHN

Examiner

RASHA S. AL AUBAIDI

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This in response to amendment filed 05/12/2009. No claims have been added. Claims 23-25 have been canceled. Claims 1, 5, 8 and 12-22 have been amended. Claims 1- 21 are still pending in this application.

Adapted to

2. Claim 21 recite the language "adapted to". MPEP 2106 (II C) states "the subject matter of a properly construed claim is defined by the terms that limit its scope. It is this subject matter that must be examined. As a general matter, the grammar and intended meaning of terms used in a claim will dictate whether the language limits the claim scope. Language that *suggests*" or *makes optional* but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim language.

The following examples of language that may raise a question as to limiting effect of the language in a claim:

- A. statements of intended use of field or use,
- B. "adapted to" or "adapted for" clauses,
- C. "wherein" clauses,
- D. "whereby" clauses.

This list of examples is not intended to be exhaustive. See also MPEP 2111.04." Since "adapted to" suggests or make optional the limitations following the claim language, these limitations may not be given weight in future office actions and it is not considered a positive limitation.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 7 recites the limitation "said step of assigning performed by a system gateway administrator". First, there is insufficient antecedent basis for this limitation in the claim. Second, it is unclear what is it being assigned by system gateway administrator.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 8, 15, 16, 18 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Pei (US PAT # 5,406,620).

Regarding claim 1, Pei teaches a system is disclosed for allocating international transit calls among a plurality of carriers in a terminating country in accordance with **routing information that has been previously specified** (the claimed routing information reads on the stored indicia, as recited in claim 1). Upon receipt of an international transit call, an **originating gateway** switch can **access** (this can read on the claimed feature of comparing said indicia to data associated with incoming call) **the appropriate carrier treatment** (reads on the stored indicia) (see abstract of the invention, col. 2, lines 15-18, lines 31-48, col. 3, lines 41-52)

Claims 8, 15-16, 18 and 20 are rejected for the same reasons as discussed above with respect to claim 1. The claimed feature of "port" as recited in claim 16 it inherent in the system and method of Pei.

For claims 3 and 10, see col. 3, lines 53-65.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 4-7, 9, 11-14, 17, 19, 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pei (US PAT # 5,406,620) in view of Elliott et al. (Pub. No.: 2008/0025295)

Regarding claims 2, 9 and 19, Pei does not specifically teach the use of an "IVR" as recited in claim's language.

However, in a voice over data telecommunication s network architecture Elliott teaches the use of Network IVR 654 is an IVR that connects to data network 112. Network IVR 654 can communicate with soft switch 204 via the IPDC protocol [0399].

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of an IVR, as taught by Elliott, into the system of Pei in order to achieve simple and fast way of collecting and gathering information.

Regarding claims 4 and 11, Pei does not specifically teach that the claimed indicia comprise a PIN. However, one of ordinary skill in the art may choose the indicia to be any type of information.

Regarding claims 5 and 12, for the claimed feature of having "originating gateway comprises more than one port ...etc", the Examiner believes that this limitation is obvious and it is considered a design choice. One of ordinary skill in the art may choose to assign any number of ports base on the need and desire.

For claims 6 and 13, see [0463].

For claims 7 and 14, Pei teaches that assigning and identifying carrier identifying indicia is done automatically. However, having a function performed manually instead of automatically or vice versa is extremely obvious and well known in the art of telephony. In re Venner, 262 F. 2d 91, 95, 120 USPQ 193, 194 (CCPA 1958); the court held that broadly providing an automatic or mechanical means to replace a manual activity which accomplished the same result is not sufficient over prior art.

Claims 21-22 are rejected for the same reasons as discussed above with respect to claim 1 and 2, respectively.

For claim 17, see verification feature as discussed in Elliott [0034-0035, 0222, 0233, 0235-0237]

Response to Arguments

6. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rasha S AL-Aubaidi whose telephone number is (571) 272-7481. The examiner can normally be reached on Monday-Friday from 8:30 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar, can be reached on (571) 272-7488.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Rasha S AL-Aubaidi/

Primary Examiner, Art Unit 2614